

ASSEMBLY BILL

No. 1588

Introduced by Assembly Member Negrete McLeod

February 22, 2005

An act to add Section 11340.95 to the Government Code, relating to administrative agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 1588, as introduced, Negrete McLeod. Administrative agencies: regulations: compliance.

Existing law prohibits any state agency, as defined, from issuing, utilizing, enforcing, or attempting to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule that is a regulation, as defined, unless it has been adopted as a regulation, as specified. Existing law exempts from this requirement any form prescribed by a state agency or any instructions relating to the form, but provides that this provision is not a limitation on the requirement that a regulation be adopted when one is needed to implement the law under which the form is issued.

This bill would provide that any person or entity that complies with lawful administrative guidance, including, but not limited to, rules, forms, regulations, bulletins, lawful written directives, and other written communications, shall be rebuttably presumed to have complied with the law or regulation upon which the guidance was based. It would prohibit a state agency or official from imposing any sanction upon a person or entity that reasonably relies upon that guidance, provided that the acts taken in reliance on that guidance were performed before any substantive change in the law or regulation upon which the guidance was based.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11340.95 is added to the Government
2 Code, to read:
3 11340.95. (a) The Legislature finds and declares that
4 individuals and businesses should not be punished for following
5 lawful procedures and guidance provided by administrative
6 bodies.
7 (b) Any person or entity that complies with lawful
8 administrative guidance, including, but not limited to, rules,
9 forms, regulations, bulletins, lawful written directives, and other
10 written communications, shall be rebuttably presumed to have
11 complied with the law or regulation upon which the guidance
12 was based. No state agency or official shall impose any sanction
13 upon a person or entity that reasonably relies upon that guidance,
14 provided that the acts taken in reliance on that guidance were
15 performed before any substantive change in the law or regulation
16 upon which the guidance was based.

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